

Key Legislation Related to Assessment and Accountability

1979 – 66th Texas Legislature, Regular Session	
SB 350	TABS (Texas Assessment of Basic Skills) testing program [implementation began in the 1980-81 school year]
1981 – 67th Texas Legislature, Regular Session	
HB 246	state curriculum [Essential Elements adopted by the State Board of Education (SBOE) in 1984]
1984 – 68th Texas Legislature, Second Called Session	
HB 72	<p>accountability provisions for students included in the exit-level testing requirement, no pass-no play, and limitation on unexcused absences to receive class credit;</p> <p>annual performance reporting requirements [first Annual Performance Reports (APRs) published in the 1985-86 school year]; and</p> <p>TEAMS (Texas Educational Assessment of Minimum Skills) testing program [implemented in the 1985-86 school year]</p>
1989 – 71st Texas Legislature, Regular Session	
SB 417	<p>performance indicators system [Academic Excellence Indicator System (AEIS) implemented in the 1990-91 school year];</p> <p>TEAMS exemptions for students with disabilities authorized;</p> <p>directs SBOE to adopt accreditation rules with six rating levels and criteria that include district efforts to reduce dropouts; directs the Texas Education Agency (TEA) to conduct annual reviews for accreditation; and</p> <p>creates Texas Educational Excellence Award System for schools and students and creates a program for recognition of school districts with scholastic gains</p>
SB 40	eliminates Grade 1 testing; adds science and social studies to testing program; and removes requirement that exit-level test be given in May
1990 – 71st Texas Legislature, Sixth Called Session	
SB 1	<p>TAAS (Texas Assessment of Academic Skills) testing program [implemented in the 1990-91 school year]</p> <p>criteria for accrediting school districts expanded to include performance on AEIS indicators as well as campus performance objectives, effective schools criteria, compliance review results, use of technology, allocation of resources</p> <p>authorizes on-site investigation of school district based on low performance and strengthens sanctions available to the Commissioner of Education (COE)</p> <p>annual performance report published by districts must include comparison data produced by TEA, public hearing required [implemented with AEIS reports in the 1990-91 school year]</p>
1991 – 72nd Texas Legislature, Regular Session	
HB 2885	<p>SBOE to define essential skills and knowledge [adoption of Texas Essential Knowledge and Skills (TEKS) by SBOE completed in 1997 and implemented in 1998-99 school year];</p> <p>AEIS data to be disaggregated by race, gender, age, socioeconomic status unsatisfactory test performance added to at-risk criteria; and</p> <p>Texas Successful Schools Award System (TSSAS) transferred to TEA from the Governor's Office</p>
SB 351	strengthens COE authority to apply accreditation sanctions to school districts

1993 – 73rd Texas Legislature, Regular Session

SB 7 adoption of Chapter 35 of Texas Education Code (TEC), bringing together laws related to assessment, accreditation, performance reporting, and accountability, and mandating creation of one of the first integrated public school accountability systems in the nation [first ratings assigned under AEIS in 1994];

changes to TAAS testing program moved testing from fall to spring, expanded grades tested [implemented in the 1993-94 school year], required comparable scales so scores could be compared across years [implemented in the 1995-96 school year]; and

authorizes development of end-of-course (EOC) tests

1995 – 74th Texas Legislature, Regular Session

SB 1 TEC readopted, reducing state regulation of educational processes;

curriculum separated into foundation and enrichment subjects;

COE to develop and propose system for evaluating progress of students with disabilities and LEP students who are exempt from the TAAS;

restricts development of EOC tests to four tests: Algebra I, Biology I, English II, U.S. History;

release of tests following last administration each year;

defines current district rating categories;

publication of notification of AEIS public hearing required;

dropout definition removed from statute;

Public Education Grant (PEG) program established;

SBOE authorized to grant open enrollment charters; and

Juvenile Justice Alternative Education Programs (JJAEP) established

1997 – 75th Texas Legislature, Regular Session

HB 1800 SDAA (State Developed Alternative Assessment) testing program [implemented in the 2000-01 school year]; and

inclusion of results for special education students in TAAS indicator used for accountability ratings [implemented in the 1999 accountability ratings]

SB 133 authorized TEA to develop accountability system for alternative education campuses; and

required Texas Juvenile Probation Commission to develop and implement accountability system for JJAEP campuses [alternative education campuses were rated under alternative procedures at the time this legislation passed; 1997 alternative education campus ratings released with standard accountability ratings]

1999 – 76th Texas Legislature, Regular Session

SB 103 TAKS (Texas Assessment of Knowledge and Skills) testing program, including Spanish versions of tests [implemented in the 2002-03 school year];

Limited English Proficient (LEP) exemptions only for non-Spanish students and recent immigrants;

authorizes RPTE (Reading Proficiency Tests in English) [implemented in the 1999-00 school year]; and

eliminates EOC tests

SB 4 Student Success Initiative (SSI) requires students to demonstrate proficiency on TAKS at grades 3, 5, and 8 as well as at exit level [implemented for grade 3 in 2002-03]

SB 875 directs COE to develop fiscal accountability proposals for next legislative session

HB 2172 requires implementation of comprehensive special education monitoring system;

adds special education compliance status to AEIS reports and ratings determinations; and

adds compliance information to Comprehensive Biennial Report

HB 2307 allows COE to impose sanctions on a district without lowering the district accountability rating

2001 – 77th Texas Legislature, Regular Session

- HB 6 explicitly grants COE authority to determine how AEIS indicators used to determine accountability ratings
- HB 1144 adds Algebra I EOC to assessment program ;
adds completion rate to dropout rate indicator for AEIS and to Comprehensive Annual Report;
annual audit of dropout records by local public accountant or CPA;
Gold Performance Acknowledgment (GPA) replaces additional acknowledgments in accountability system [implemented with 2002 ratings];
COE authority to appoint board of managers; and
Comprehensive Biennial Report becomes Annual and content expanded, including sections related to students at risk, alternative education, and charter schools
- SB 218 financial accountability system adopted
- SB 676 allows exemption from TAKS for three years for immigrant LEP students

- 2002** No Child Left Behind Act of 2001 (NCLB) reauthorizes federal Elementary and Secondary Education (ESEA) Act and extends accountability provisions that previously applied only to Title I funded campuses to all campuses; specifies testing requirements with no exemptions, accountability indicator definitions, student groups, and standards [first AYP designations assigned in 2003]

2003 – 78th Texas Legislature, Regular Session

- HB 411 adds grade 8 science TAKS and authorizes other tests required by federal statute
- HB 447 additional criteria for determining whether student will take SDAA, new SDAA participation performance indicator, excessive SDAA use triggers investigation
- HB 2683 removes TYC students from accountability indicators
- HB 3459 limitations on compliance monitoring [Performance-Based Monitoring System];
reduces frequency of release of tests from every year to every other year;
removes restriction against reporting SDAA by grade and subject (allowing use in accountability system); and
eliminates annual dropout audit by local independent auditors
- SB 186 dropout rate must be computed in accordance with National Center for Education Statistics (NCES) definition and completion rate must be computed in accordance with standards in NCLB
- SB 618 requires August 1 release of accountability ratings
- SB 897 requires electronic audit of dropout records based on risk factors
- SB 976 expands sanctions COE must impose on school districts with ongoing low ratings due to dropouts
- SB 1108 adds option of innovative redesign for low performing campuses
- SB 1109 modifies timeline for administering Gr. 8 science

2006 – 79th Texas Legislature, Third Called Session

- HB 1 accreditation system authorized;
expands accountability sanctions for *Academically Unacceptable* campuses and adds interventions for campuses that receive *Academically Acceptable* accountability rating;
development of student growth measure;
development of college readiness standards with Texas Higher Education Coordinating Board (THECB); and
4 x 4 graduation requirements

2007 – 80th Texas Legislature, Regular Session

- SB 1031 EOC testing program replaces high school TAKS and graduation requirement;
new test security provisions;
modifications to growth measure, including developing vertical scale;
college-readiness assessment;
limitation on local testing; and
select committee on public school accountability

2009 – 81st Texas Legislature, Regular Session

HB 3 revises numerous provisions relating to public school accreditation; the existing academic excellence indicator system will be replaced as a basis for district and campus accreditation and ratings; an academic distinction designation and specific rating criteria will be implemented with percent proficient and college readiness to be phased in; the State of Texas Assessments of Academic Readiness (STAAR) testing program will replace the TAKS in 2011-12 and will be used for the twelve end-of-course assessments mandated by SB 1031; new grade 3-8 assessments were mandated in the 2009 legislative session; Gold Performance Acknowledgments (GPA) system will be eliminated; and the new accountability system will be implemented for the first time in the 2012-13 school year

2011 – 82nd Texas Legislature, Regular Session

HB 2135 removes the requirement that a grade 3-8 student be assessed with a grade-level assessment instrument if the student: 1) is enrolled in a course for which the student will receive high school credit; and 2) will be administered that course's EOC assessment instrument; establishes that performance on EOC assessments taken below grade 9 must be included in the middle or elementary school accountability indicator but does not prohibit use in the high school indicator; allows the commissioner of education to award a distinction designation to a campus with a significant number of students below grade nine who perform satisfactorily on certain EOC assessments.

State Accountability Statutory Requirements 2013 and Beyond

Background

In 1993, the Texas Legislature enacted the statutes that mandated the creation of the Texas public school accountability system to rate school districts and evaluate schools. Texas Education Code (TEC), Chapter 39, Public School System Accountability, contains state accountability statutory requirements.

In November 1994, Chapter 61, School Districts, Subchapter BB, Commissioner's Rules on Reporting Requirements was added to the Texas Administrative Code (TAC). Part(s) of the annual *Accountability Manual* were first adopted by reference in TAC, Chapter 97, Planning and Accountability in June 2000.

House Bill 6, enacted by the 77th Texas Legislature in 2001, called for a pilot program to examine issues surrounding accountability of alternative education programs. The goals of this pilot were to analyze the existing status of AECs and to make recommendations regarding the methods of evaluating the performance of these campuses by creating two sets of surveys; analyzing existing Public Education Information Management System (PEIMS) data; and analyzing individual student data from a small sample of AECs.

The *2002 Alternative Education Accountability Manual and Addendum* were adopted by reference in TAC, Chapter 97 in July 2002.

House Bill 1, enacted by the 78th Legislature in 2003, is a comprehensive school reform and finance bill that impacted many aspects of public school finance, property tax relief, public school accountability and other related matters.

The accountability system integrates the statewide curriculum; the state criterion-referenced assessment system; district and campus accountability; district and campus recognition for high performance and significant increases in performance; sanctions for poor performance; and school, district, and state-level reports.

The commissioner of education sets the standards for each accountability rating category within parameters specified in statute. The accountability standards established from 1994 through 2004 were designed to phase in increasingly higher expectations for districts and campuses. Between 1995 and 2001, expectations for acceptable performance were raised annually. In 2004, a new accountability rating system was developed that included: Texas Assessment of Knowledge and Skills (TAKS); State-Developed Alternative Assessment (SDAA); longitudinal completion rates; and annual dropout rates.

The state student assessment program has evolved in response to new federal requirements for testing students with disabilities and students with limited English proficiency (LEP). New tests are being phased into the state accountability indicators. Senate Bill 1031, enacted by the 80th Texas Legislature in 2007, introduced an end-of-course (EOC) testing program to replace the high school end-of-grade tests. The commissioner of education will adopt a transition plan to implement the EOC tests, including accountability requirements during the phase out of the TAKS and the phase in of the EOC requirements.

House Bill 3 (HB 3), enacted by the 81st Legislature in 2009, revises numerous provisions relating to public school accreditation. Under HB 3, the commissioner of education is required to adopt and review a set of indicators of the quality of learning and student achievement, replacing the existing indicators as a basis for district and campus accreditation and ratings. This includes preparing reports on the quality of learning and student achievement for districts, parents, and teachers.

The commissioner of education is also required to periodically raise the state standard for the student achievement indicator relating to the college-readiness performance standard as necessary to reach specific goals by the 2019-20 school year.

This bill requires the exclusion of specific students from the computation of the dropout and completion rates and from student achievement indicators for accreditation and accountability; establishes methods and standards for evaluating school district and campus performance; and eliminates the Gold Performance Acknowledgment (GPA) system.

The procedures and requirements regarding accreditation interventions and sanctions are revised, including the assignment of a campus intervention team, implementation of a campus improvement plan, and procedures for the reconstitution, repurposing, alternative management, and possible closure of underperforming campuses.

The commissioner is required to establish a recognized and exemplary rating for awarding districts and campuses an academic distinction designation and set specific rating criteria. Advisory committees will be established to develop criteria for each component of the program or performance category designation.

The implementation timeline for HB 3 was submitted to the governor, lieutenant governor, and other key legislators by December 1, 2010. The HB 3 transition plan is available online at <http://www.tea.state.tx.us/student.assessment/hb3plan/> and has sections covering the development of the new State of Texas Assessments of Academic Readiness (STAAR™) program; the development of new performance ratings for Texas public schools; federal requirements for assessment and accountability; accreditation, sanctions and interventions; and financial accountability.

Go to <http://www.capitol.state.tx.us/tlodocs/81R/billtext/pdf/HB00003F.pdf> to review the text of HB 3.

For the 2011-12 school year, the new State of Texas Assessments of Academic Readiness (STAAR) will be implemented for the first time. Also, assignment of performance ratings will be suspended. Development of the new academic accountability system continues with the timelines established by the HB 3 transition plan.

On August 8, 2013, district and campus performance ratings will be issued for the first time under the new system. Ratings will be based on percent proficient indicator. The percent college-ready indicator will be a report only. On August 8, 2014, district and campus performance ratings are issued for the second time under the new system. Ratings will be based on both percent proficient and percent college-ready indicators.

State Statute (TEC) and Commissioner's Rules (TAC):

Attachments related to state statute and rules follow.

- TEC Chapter 29, Subchapter C (excerpts)

- TEC Chapter 39 (excerpts)

- TAC Chapters 61 and 97 (excerpts)

Texas Education Code (TEC) Related to Accountability

Under House Bill (HB) 3, 81st Texas Legislature, Regular Session, 2009

Chapter 29. Public School System Accountability

Subchapter C. Compensatory Education Programs

§29.081. Compensatory, Intensive, and Accelerated Instruction

- (a) Each school district shall use the student performance data resulting from the basic skills assessment instruments and achievement tests administered under Subchapter B, Chapter 39 to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the district's schools that enable the students to be performing at grade level at the conclusion of the next regular school term.
- (b) Each district shall provide accelerated instruction to a student enrolled in the district who has taken an end-of-course assessment instrument administered under Section 39.023(c) and has not performed satisfactorily on the assessment instrument or who is at risk of dropping out of school.
- (c) Each school district shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on assessment instruments administered under Subchapter B, Chapter 39, or disparity in the rates of high school completion between students at risk of dropping out of school and all other district students.
- (d) For purposes of this section, "student at risk of dropping out of school" includes each student who is under 21 years of age and who:
 - (1) was not advanced from one grade level to the next for one or more school years;
 - (2) if the student is in grade 7, 8, 9, 10, 11, or 12, did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;
 - (3) did not perform satisfactorily on an assessment instrument administered to the student under Subchapter B, Chapter 39, and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;
 - (4) if the student is in prekindergarten, kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;
 - (5) is pregnant or is a parent;
 - (6) has been placed in an alternative education program in accordance with Section 37.006 during the preceding or current school year;
 - (7) has been expelled in accordance with Section 37.007 during the preceding or current school year;
 - (8) is currently on parole, probation, deferred prosecution, or other conditional release;
 - (9) was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;
 - (10) is a student of limited English proficiency, as defined by Section 29.052;
 - (11) is in the custody or care of the Department of Protective and Regulatory Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;
 - (12) is homeless, as defined by 42 U.S.C. Section 11302, and its subsequent amendments; or
 - (13) resided in the preceding school year or resides in the current school year in a residential placement facility in the district, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster group home.
- (e) A school district may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The programs must:
 - (1) provide not less than four hours of instructional time per day;
 - (2) employ as faculty and administrators persons with baccalaureate or advanced degrees;
 - (3) provide at least one instructor for each 28 students;
 - (4) perform satisfactorily according to performance indicators and accountability standards adopted for alternative education programs by the commissioner; and

§29.081. Compensatory, Intensive, and Accelerated Instruction. cont.

- (5) comply with this title and rules adopted under this title except as otherwise provided by this subsection.
- (f) The commissioner shall include students in attendance in a program under Subsection (e) in the computation of the district's average daily attendance for funding purposes.
- (g) In addition to students described by Subsection (d), a student who satisfies local eligibility criteria adopted by the board of trustees of a school district may receive instructional services under this section. The number of students receiving services under this subsection during a school year may not exceed 10 percent of the number of students described by Subsection (d) who received services from the district during the preceding school year.

Chapter 39. Public School System Accountability

Subchapter B. Assessment of Academic Skills

§39.021. Essential Skills and Knowledge

The State Board of Education by rule shall establish the essential skills and knowledge that all students should learn to achieve the goals provided under Section 4.002.

§39.022. Assessment Program

The State Board of Education by rule shall create and implement a statewide assessment program that is knowledge- and skills-based to ensure school accountability for student achievement that achieves the goals provided under Section 4.002. After adopting rules under this section, the State Board of Education shall consider the importance of maintaining stability in the statewide assessment program when adopting any subsequent modification of the rules.

§39.023. Adoption and Administration of Instruments

- (a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. All students, except students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:
 - (1) mathematics, annually in grades three through seven without the aid of technology and in grade eight with the aid of technology on any assessment instrument that includes algebra;
 - (2) reading, annually in grades three through eight;
 - (3) writing, including spelling and grammar, in grades four and seven;
 - (4) social studies, in grade eight;
 - (5) science, in grades five and eight; and
 - (6) any other subject and grade required by federal law.
- (a-1) The agency shall develop assessment instruments required under Subsection (a) in a manner that allows, to the extent practicable:
 - (1) the score a student receives to provide reliable information relating to a student's satisfactory performance for each performance standard under Section 39.0241; and
 - (2) an appropriate range of performances to serve as a valid indication of growth in student achievement.
- (b) The agency shall develop or adopt appropriate criterion referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee.
- (c) The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history. The Algebra I, Algebra II, and geometry end-of-course assessment instruments must be administered with the aid of technology. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection and shall adopt a policy that requires a student's performance on an end-of-course assessment instrument for a course listed in this subsection in which the student is enrolled to account for 15 percent of the student's final grade for the course. If a student retakes an end-of-course assessment instrument for a course listed in this subsection, as provided

§39.023. Adoption and Administration of Instruments. cont.

by Section 39.025, a school district is not required to use the student's performance on the subsequent administration or administrations of the assessment instrument to determine the student's final grade for the course. If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The State Board of Education shall administer the assessment instruments. The State Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).

- (c-1) The agency shall develop any assessment instrument required under this section in a manner that allows for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).
- (c-2) The agency may adopt end-of-course assessment instruments for courses not listed in Subsection (c). A student's performance on an end-of-course assessment instrument adopted under this subsection is not subject to the performance requirements established under Subsection (c) or Section 39.025.
- (c-3) In adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall require:
 - (1) assessment instruments administered under Subsection (a) to be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year; and
 - (2) the spring administration of end-of-course assessment instruments under Subsection (c) to occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instruments in English I, English II, and English III must be permitted to occur at an earlier date.
- (c-4) To the extent practicable and subject to Section 39.024, the agency shall ensure that each end-of-course assessment instrument adopted under Subsection (c) is:
 - (1) developed in a manner that measures a student's performance under the college readiness standards established under Section 28.008; and
 - (2) validated by national postsecondary education experts for college readiness content and performance standards.
- (c-5) A student's performance on an end-of-course assessment instrument required under Subsection (c) must be included in the student's academic achievement record.
- (c-6) In adopting an end-of-course assessment instrument under this section, the agency shall consider the use of an existing assessment instrument that is currently available. The agency may use an existing assessment instrument that is currently available only if the assessment instrument:
 - (1) is aligned with the essential knowledge and skills of the subject being assessed; and
 - (2) allows for the measurement of annual improvement in student achievement as provided by Subsection (c-1).
- (d) The commissioner may participate in multistate efforts to develop voluntary standardized end-of-course assessment instruments. The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts. The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable modification is necessary in administering to the student an end-of-course assessment instrument.
- (e) Under rules adopted by the State Board of Education, every third year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (l), excluding any assessment instrument administered to a student for the purpose of retaking the assessment instrument, after the last time the instrument is administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score.

§39.023. Adoption and Administration of Instruments. cont.

- (f) The assessment instruments shall be designed to include assessment of a student's problem-solving ability and complex-thinking skills using a method of assessing those abilities and skills that is demonstrated to be highly reliable.
- (g) The State Board of Education may adopt one appropriate, nationally recognized, norm-referenced assessment instrument in reading and mathematics to be administered to a selected sample of students in the spring. If adopted, a norm-referenced assessment instrument must be a secured test. The state may pay the costs of purchasing and scoring the adopted assessment instrument and of distributing the results of the adopted instrument to the school districts. A district that administers the norm-referenced test adopted under this subsection shall report the results to the agency in a manner prescribed by the commissioner.
- (h) The agency shall notify school districts and campuses of the results of assessment instruments administered under this section at the earliest possible date determined by the State Board of Education but not later than the beginning of the subsequent school year.
- (i) The provisions of this section, except Subsection (d), are subject to modification by rules adopted under Section 39.022. Each assessment instrument adopted under those rules and each assessment instrument required under Subsection (d) must be reliable and valid and must meet any applicable federal requirements for measurement of student progress.
- (j) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 18, eff. September 1, 2007.
- (l) The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through five who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(1) or (2). Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a). The language proficiency assessment committee established under Section 29.063 shall determine which students are administered assessment instruments in Spanish under this subsection.
- (m) The commissioner by rule shall develop procedures under which the language proficiency assessment committee established under Section 29.063 shall determine which students are exempt from the administration of the assessment instruments under Section 39.027(a)(1) or (2). The rules adopted under this subsection shall ensure that the language proficiency assessment committee provides that the exempted students are administered the assessment instruments under Subsections (a) and (c) at the earliest practical date.
- (n) This subsection applies only to a student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. Section 705(20) and its subsequent amendments. The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess the ability of and to be administered to each student to whom this subsection applies for whom the assessment instruments adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the committee established by the board of trustees of the district to determine the placement of students with dyslexia or related disorders. The committee shall determine whether any allowable modification is necessary in administering to a student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).
- (o) The commissioner of education and the commissioner of higher education shall study the feasibility of allowing students to satisfy end-of-course requirements under Subsection (c) by successfully completing a dual credit course through an institution of higher education. Not later than December 1, 2010, the commissioner of education and the commissioner of higher education shall make recommendations to the legislature based on the study conducted under this subsection.
- (p) On or before September 1 of each year, the commissioner shall make the following information available on the agency's Internet website for each assessment instrument administered under Subsection (a), (c), or (l):

§39.023. Adoption and Administration of Instruments. cont.

- (1) the number of questions on the assessment instrument;
- (2) the number of questions that must be answered correctly to achieve satisfactory performance as determined by the commissioner under Section 39.0241(a);
- (3) the number of questions that must be answered correctly to achieve satisfactory performance under the college readiness performance standard as provided by Section 39.0241; and
- (4) the corresponding scale scores.

§39.0231. Reporting of Results of Certain Assessments. Citation not included here.

§39.0232. Use of End-of-Course Assessment Instrument as Placement Instrument

To the extent practicable, the agency shall ensure that any high school end-of-course assessment instrument developed by the agency is developed in such a manner that the assessment instrument may be used to determine the appropriate placement of a student in a course of the same subject matter at an institution of higher education.

§39.0233. Special-Purpose Questions Included in End-Of-Course Assessment Instruments

- (a) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of Section 51.3062. The questions adopted under this subsection must be developed in a manner consistent with any college readiness standards adopted under Sections 39.113 and 51.3062.
- (b) In addition to the questions adopted under Subsection (a), the agency shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. A school district shall notify a student who performs at a high level on the questions adopted under this subsection and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A school district may not require a student to perform at a particular level on the questions adopted under this subsection in order to be eligible to enroll in an advanced high school course.
- (c) The State Board of Education shall establish a level of performance on the questions adopted under this section that indicates a student's college readiness. A student's performance on the questions adopted under this section must be evaluated separately from the student's performance on the remainder of the assessment instrument. A student's performance on a question adopted under this section may not be used to determine the student's performance on the assessment instrument for purposes of Section 39.023 or 39.025. The commissioner shall adopt rules concerning the reporting of a student's performance on the questions adopted under this section.
- (d) The questions adopted under this section must be administered in a separate section of the end-of-course assessment instrument in which the questions are included.

§39.0234. Administration of Assessment Instruments by Computer. Citation not included here.

§39.0235. Technology Literacy Assessment Pilot Program. Citation not included here.

§39.024. Measure of College Readiness.

- (a) In this section, "college readiness" means the level of preparation a student must attain in English language arts and mathematics courses to enroll and succeed, without remediation, in an entry-level general education course for credit in that same content area for a baccalaureate degree or associate degree program at:
 - (1) a general academic teaching institution, as defined by Section 61.003, other than a research institution, as categorized under the Texas Higher Education Coordinating Board's accountability system; or
 - (2) a postsecondary educational institution that primarily offers associate degrees or certificates or credentials other than baccalaureate or advanced degrees.

§39.024. Measure of College Readiness cont.

- (b) The agency and the Texas Higher Education Coordinating Board shall ensure that the Algebra II and English III end-of-course assessment instruments required under Section 39.023(c) are developed to be capable of, beginning with the 2011-2012 school year, measuring college readiness.
- (c) Before the beginning of the 2011-2012 school year, the agency, in collaboration with the Texas Higher Education Coordinating Board, shall gather data and conduct research studies to substantiate the correlation between a certain level of performance by students on the Algebra II and English III end-of-course assessment instruments and college readiness.
- (d) Studies under Subsection (c) must include an evaluation of any need for remediation courses to facilitate college readiness.
- (e) Based on the results of the studies conducted under Subsection (c), the commissioner of education and the commissioner of higher education shall establish student performance standards for the Algebra II and English III end-of-course assessment instruments indicating that students have attained college readiness.
- (f) The agency, in collaboration with the Texas Higher Education Coordinating Board, shall conduct research studies similar to the studies conducted under Subsection (c) for the appropriate science and social studies end-of-course assessment instruments. If the commissioner of education, in collaboration with the commissioner of higher education, determines that the research studies conducted under this subsection substantiate a correlation between a certain level of performance by students on science and social studies end-of-course assessment instruments and college readiness, the commissioner of education, in collaboration with the commissioner of higher education, as soon as practicable, may establish student performance standards for the science and social studies end-of-course assessment instruments indicating that students have attained college readiness.
- (f-1) Not later than December 1, 2012, the agency and the Texas Higher Education Coordinating Board shall deliver to the lieutenant governor, the speaker of the house of representatives, and the clerks of the standing committees of the senate and the house of representatives with primary jurisdiction over public education and higher education a report that includes:
 - (1) an analysis of the feasibility of establishing college readiness performance standards for science and social studies end-of-course assessment instruments; and
 - (2) a summary of any implementation procedures adopted for each standard.
- (f-2) Subsection (f-1) and this subsection expire January 1, 2013.
- (g) The agency, in collaboration with the Texas Higher Education Coordinating Board, shall continue to gather data to perform studies as provided under Subsections (c) and (f) at least once every three years.
- (h) The agency and the Texas Higher Education Coordinating Board shall periodically review the college readiness performance standards established under this section and compare the performance standards to performance standards established nationally and internationally for comparable assessment instruments. Following each review, the agency and the Texas Higher Education Coordinating Board shall deliver to the lieutenant governor, the speaker of the house of representatives, and the clerks of the standing committees of the senate and the house of representatives with primary jurisdiction over public education and higher education a report on the results of the review indicating whether the college readiness performance standards established under this section are sufficiently rigorous to prepare students in this state to compete academically with students nationally and internationally. If the agency and the Texas Higher Education Coordinating Board determine that the college readiness performance standards established under this section are not sufficiently rigorous, the agency and the Texas Higher Education Coordinating Board shall recommend changes to the college readiness performance standards.
- (i) The agency shall gather data and conduct research to substantiate any correlation between a certain level of performance by students on end-of-course assessment instruments and success in:
 - (1) military service; or
 - (2) a workforce training, certification, or other credential program at a postsecondary educational institution that primarily offers associate degrees or certificates or credentials other than baccalaureate or advanced degrees.

§39.0241. Performance Standards.

- (a) The commissioner shall determine the level of performance considered to be satisfactory on the assessment instruments.
- (a-1) The commissioner of education, in collaboration with the commissioner of higher education, shall determine the level of performance necessary to indicate college readiness, as defined by Section 39.024(a).
- (a-2) For the purpose of establishing performance across grade levels, the commissioner shall establish:
 - (1) the performance standards for the Algebra II and English III end-of- course assessment instruments, as provided under Section 39.024(b) and under Subsection (a);
 - (2) the performance standards for the Algebra I and English II end-of-course assessment instruments, as determined based on studies under Section 39.0242 that correlate student performance on the Algebra I and English II end-of-course assessment instruments with student performance on the Algebra II and English III assessment instruments;
 - (3) the performance standards for the English I end-of-course assessment instrument, as determined based on studies under Section 39.0242 that correlate student performance on the English I end-of-course assessment instrument with student performance on the English II assessment instrument;
 - (4) the performance standards for the grade eight assessment instruments, as determined based on studies under Section 39.0242 that correlate student performance on the grade eight assessment instruments with student performance on the Algebra I and English I end-of-course assessment instruments in the same content area; and
 - (5) the performance standards on the assessment instruments in each of grades three through seven, as determined based on studies under Section 39.0242 that correlate student performance in the same content area on the assessment instrument for each grade with student performance on the assessment instrument in the succeeding grade.
- (c) Using funds appropriated for purposes of this subsection, the agency may develop study guides for the assessment instruments administered under Sections 39.023(a) and (c). To assist parents in providing assistance during the period that school is recessed for summer, each school district shall make the study guides available to parents of students who do not perform satisfactorily as determined by the commissioner under Subsection (a) on one or more parts of an assessment instrument administered under this subchapter.
- (d) Using funds appropriated for purposes of this subsection, the agency shall develop and make available teacher training materials and other teacher training resources to assist teachers in enabling students of limited English proficiency to meet state performance expectations. The teacher training resources shall be designed to support intensive, individualized, and accelerated instructional programs developed by school districts for students of limited English proficiency.

§39.0242. Performance Standards: Research Studies and Implementation of Standards.

- (a) During the 2009-2010 and 2010-2011 school years, the agency shall collect data through:
 - (1) the annual administration of assessment instruments required under Section 39.023(a) in grades three through eight; and
 - (2) the administration to a sufficiently large sample of students throughout the state of end-of-course assessment instruments required under Section 39.023(c) for the purpose of setting performance standards.
- (b) Before the beginning of the 2011-2012 school year, the agency shall analyze the data collected under Subsection (a) to substantiate:
 - (1) the correlation between satisfactory student performance for each performance standard under Section 39.0241 on the grade three, four, five, six, or seven assessment instruments with satisfactory performance under the same performance standard on the assessment instruments in the same content area for the next grade level;
 - (2) the correlation between satisfactory student performance for each performance standard under Section 39.0241 on the grade eight assessment instruments with satisfactory performance under the same performance standard on the Algebra I and English I end-of-course assessment instruments in the same content area;

§39.0242. Performance Standards: Research Studies and Implementation of Standards.

- (3) the correlation between satisfactory student performance for each performance standard under Section 39.0241 on the English I end-of-course assessment instrument with satisfactory performance under the same performance standard on the English II end-of-course assessment instrument;
 - (4) the correlation between satisfactory student performance for each performance standard under Section 39.0241 on the English II end-of-course assessment instrument with satisfactory performance under the same performance standard on the English III end-of-course assessment instrument; and
 - (5) the correlation between satisfactory student performance for each performance standard under Section 39.0241 on the Algebra I end-of-course assessment instrument with satisfactory performance under the same performance standard on the Algebra II end-of-course assessment instrument.
- (c) Studies under this section must include an evaluation of any need for remediation courses to facilitate college readiness.
 - (d) The agency shall continue to gather data and perform studies as provided under this section at least once every three years. If the data do not support the correlation between student performance standards and college readiness, the commissioner of education, in collaboration with the commissioner of higher education, shall revise the standard of performance considered to be satisfactory.
 - (e) Based on the data collected and studies performed periodically under Subsection (d), the commissioner shall increase the rigor of the performance standard established under Section 39.0241(a) as the commissioner determines necessary.

§39.025. Secondary-Level Performance Required.

- (a) The commissioner shall adopt rules requiring a student participating in the recommended or advanced high school program to be administered each end-of-course assessment instrument listed in Section 39.023(c) and requiring a student participating in the minimum high school program to be administered an end-of-course assessment instrument listed in Section 39.023(c) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered. A student is required to achieve, in each subject in the foundation curriculum under Section 28.002(a)(1), a cumulative score that is at least equal to the product of the number of end-of-course assessment instruments administered to the student in that subject and a scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a). A student must achieve a minimum score as determined by the commissioner to be within a reasonable range of the scale score under Section 39.0241(a) on an end-of-course assessment instrument for the score to count towards the student's cumulative score. For purposes of this subsection, a student's cumulative score is determined using the student's highest score on each end-of-course assessment instrument administered to the student. A student may not receive a high school diploma until the student has performed satisfactorily on the end-of-course assessment instruments in the manner provided under this subsection. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.
- (a-1) The commissioner by rule shall determine a method by which a student's satisfactory performance on an advanced placement test, international baccalaureate examination, an SAT Subject Test, or another assessment instrument determined by the commissioner to be at least as rigorous as an end-of-course assessment instrument adopted under Section 39.023(c) may be used as a factor in determining whether the student satisfies the requirements of Subsection (a), including the cumulative score requirement of that subsection. The commissioner by rule may determine a method by which a student's satisfactory performance on a Preliminary Scholastic Assessment Test (PSAT) assessment or a preliminary American College Test (ACT) assessment may be used as a factor in determining whether the student satisfies the requirements of Subsection (a).
- (a-2) In addition to the cumulative score requirements under Subsection (a), a student must achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a) for English III and Algebra II end-of-course assessment instruments to graduate under the recommended high school program.

§39.025. Secondary-Level Performance Required. cont.

- (a-3) In addition to the cumulative score requirements under Subsection (a), a student must achieve a score that meets or exceeds the score determined by the commissioner under Section 39.0241(a-1) on English III and Algebra II end-of-course assessment instruments in order to graduate under the advanced high school program.
- (b) Each time an end-of-course assessment instrument is administered, a student who failed to achieve a minimum score under Subsection (a) shall retake the assessment instrument. A student who fails to perform satisfactorily on an Algebra II or English III end-of-course assessment instrument under the college readiness performance standard, as provided under Section 39.024(b), may retake the assessment instrument. Any other student may retake an end-of-course assessment instrument for any reason. A student is not required to retake a course as a condition of retaking an end-of-course assessment instrument.
- (b-1) A school district shall provide each student who fails to perform satisfactorily as determined by the commissioner under Section 39.0241(a) on an end-of-course assessment instrument with accelerated instruction in the subject assessed by the assessment instrument.
- (b-2) If a school district determines that a student, on completion of grade 11, is unlikely to achieve the cumulative score requirements for one or more subjects prescribed by Subsection (a) for receiving a high school diploma, the district shall require the student to enroll in a corresponding content area college preparatory course for which an end-of-course assessment instrument has been adopted, if available. A student who enrolls in a college preparatory course described by this subsection shall be administered an end-of-course assessment instrument for the course, with the end-of-course assessment instrument scored on a scale as determined by the commissioner not to exceed 20 percent of the cumulative score requirements required to graduate as determined under Subsection (a). A student may use the student's score on the end-of-course assessment instrument for the college preparatory course towards satisfying the cumulative score requirements prescribed by Subsection (a).
- (c) A student who has been denied a high school diploma under this section and who subsequently performs at the level necessary to comply with the requirements of this section shall be issued a high school diploma.
- (c-1) A school district may not administer an assessment instrument required for graduation administered under this section as this section existed before September 1, 1999. A school district may administer to a student who failed to perform satisfactorily on an assessment instrument described by this subsection an alternate assessment instrument designated by the commissioner. The commissioner shall determine the level of performance considered to be satisfactory on an alternate assessment instrument. The district may not administer to the student an assessment instrument or a part of an assessment instrument that assesses a subject that was not assessed in an assessment instrument required for graduation administered under this section as this section existed before September 1, 1999. The commissioner shall make available to districts information necessary to administer the alternate assessment instrument authorized by this subsection. The commissioner's determination regarding designation of an appropriate alternate assessment instrument under this subsection and the performance required on the assessment instrument is final and may not be appealed.
- (d) Notwithstanding Subsection (a), the commissioner by rule shall adopt one or more alternative nationally recognized norm referenced assessment instruments under this section to administer to a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate:
 - (1) for the first time in a public school in this state; or
 - (2) after an absence of at least four years from any public school in this state.
- (e) The commissioner shall establish a required performance level for an assessment instrument adopted under Subsection (d) that is at least as rigorous as the performance level required to be met under Subsection (a).
- (f) The commissioner shall by rule adopt a transition plan to implement the amendments made by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007, replacing general subject assessment instruments administered at the high school level with end-of-course assessment instruments. The rules must provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the

§39.025. Secondary-Level Performance Required. cont.

2011-2012 school year. During the period under which the transition to end-of-course assessment instruments is made:

- (1) for students entering a grade above the ninth grade during the 2011-2012 school year, the commissioner shall retain, administer, and use for purposes of accreditation and other campus and district accountability measures under this chapter the assessment instruments required by Section 39.023(a) or (c), as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007;
 - (2) a student subject to Subdivision (1) may not receive a high school diploma unless the student has performed satisfactorily on each required assessment instrument administered under Section 39.023(c) as that section existed before amendment by Chapter 1312 (S.B. No. 1031), Acts of the 80th Legislature, Regular Session, 2007; and
 - (3) the agency may defer releasing assessment instrument questions and answer keys as required by Section 39.023(e) to the extent necessary to develop additional assessment instruments.
- (g) Rules adopted under Subsection (f) must require that each student who will be subject to the requirements of Subsection (a) is entitled to notice of the specific requirements applicable to the student. Notice under this subsection must be provided not later than the date the student enters the eighth grade. Subsection (f) and this subsection expire September 1, 2015.

§39.026. Local Option. Citation not included here.

§39.0261. College Preparation Assessments. Excerpt

- (a) In addition to the assessment instruments otherwise authorized or required by this subchapter:
- (1) each school year and at state cost, a school district shall administer to students in the spring of the eighth grade an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school;
 - (2) each school year and at state cost, a school district shall administer to students in the 10th grade an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument for the purpose of measuring a student's progress toward readiness for college and the workplace; and
 - (3) high school students in the spring of the 11th grade or during the 12th grade may select and take once, at state cost, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes...

§39.0262. Administration of District-Required Assessment Instruments in Certain Subject Areas.

Citation not included here.

§39.027. Exemption.

- (a) A student may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of an assessment instrument under:
- (1) Section 39.023(a), (b), (c), or (l) for a period of up to one year after initial enrollment in a school in the United States if the student is of limited English proficiency, as defined by Section 29.052, and has not demonstrated proficiency in English as determined by the assessment system under Subsection (e);
 - (2) Section 39.023(a), (b), (c), or (l) for a period of up to two years in addition to the exemption period authorized by Subdivision (1) if the student has received an exemption under Subdivision (1) and:
 - (A) is a recent unschooled immigrant; or
 - (B) is in a grade for which no assessment instrument in the primary language of the student is available; or
 - (3) Section 39.023(a), (b), (c), or (l) for a period of up to four years, in addition to the exemption period authorized under Subdivision (1), if the student's initial enrollment in a school in the United States was as an unschooled asylee or refugee.

§39.027. Exemption. cont.

- (a-1) For purposes of this section, "unschooled asylee or refugee" means a student who:
- (1) initially enrolled in a school in the United States as:
 - (A) an asylee as defined by 45 C.F.R. Section 400.41; or
 - (B) a refugee as defined by 8 U.S.C. Section 1101;
 - (2) has a visa issued by the United States Department of State with a Form I-94 Arrival/Departure record, or a successor document, issued by the United States Citizenship and Immigration Services that is stamped with "Asylee," "Refugee," or "Asylum"; and
 - (3) as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Section 28.002, as determined by the language proficiency assessment committee established under Section 29.063.
- (b) The State Board of Education shall adopt rules under which a dyslexic student who is not exempt under Subsection (a) may use procedures including oral examinations if appropriate or may be allowed additional time or the materials or technology necessary for the student to demonstrate the student's mastery of the competencies the assessment instruments are designed to measure.
- (c) The commissioner shall develop and adopt a process for reviewing the exemption process of a school district or shared services arrangement that gives an exemption under Subsection (a)(1) as follows:
- (1) to more than five percent of the students in the special education program, in the case of a district or shared services arrangement with an average daily attendance of at least 1,600;
 - (2) to more than 10 percent of the students in the special education program, in the case of a district or shared services arrangement with an average daily attendance of at least 190 and not more than 1,599; or
 - (3) to the greater of more than 10 percent of the students in the special education program or to at least five students in the special education program, in the case of a district or shared services arrangement with an average daily attendance of not more than 189.
- (d) Expired.
- (e) The commissioner shall develop an assessment system that shall be used for evaluating the academic progress, including reading proficiency in English, of all students of limited English proficiency, as defined by Section 29.052. A student who is exempt from the administration of an assessment instrument under Subsection (a)(1) or (2) who achieves reading proficiency in English as determined by the assessment system developed under this subsection shall be administered the assessment instruments described by Sections 39.023(a) and (c). The performance under the assessment system developed under this subsection of students to whom Subsection (a)(1) or (2) applies shall be included in the indicator systems under Section 39.301, as applicable, the performance report under Section 39.306, and the comprehensive annual report under Section 39.332. This information shall be provided in a manner that is disaggregated by the bilingual education or special language program, if any, in which the student is enrolled.
- (f) In this section, "average daily attendance" is computed in the manner provided by Section 42.005.
- (g) For purposes of this section, "recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment instrument under Section 39.023(a) or (l) and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Section 28.002 as determined by the language proficiency assessment committee established under Section 29.063. For purposes of this subsection and to the extent authorized by federal law, a child's prior enrollment in a school in the United States shall be determined on the basis of documents and records required under Section 25.002(a).

§39.028. Comparison of State Results to National Results. Citation not included here.

§39.029. Migratory Children. Citation not included here.

§39.030. Confidentiality; Performance Reports. Citation not included here.

§39.0301. Security in Administration of Assessment Instruments. Citation not included here.

§39.0302. Issuance of Subpoenas. Citation not included here.

§39.0303. Secure Assessment Instruments; Criminal Penalty. Citation not included here.

§39.0304. Training in Assessment Instruments Administration. Citation not included here.

§39.031. Cost. Citation not included here.

§39.032. Assessment Instrument Standards; Civil Penalty. Citation not included here.

§39.033. Voluntary Assessment of Private School Students. Citation not included here.

§39.034. Measure of Annual Improvement in Student Achievement

- (a) The commissioner shall determine a method by which the agency may measure annual improvement in student achievement from one school year to the next on an assessment instrument required under this subchapter.
- (b) For students of limited English proficiency, as defined by Section 29.052, the agency shall use a student's performance data on reading proficiency assessment instruments in English and one other language to calculate the student's progress toward dual language proficiency.
- (c) The agency shall use a student's previous years' performance data on an assessment instrument required under this subchapter to determine the student's expected annual improvement. The agency shall report that expected level of annual improvement and the actual level of annual improvement achieved to the district. The report must state whether the student fell below, met, or exceeded the agency's expectation for improvement.
- (d) The agency shall determine the necessary annual improvement required each year for a student to be prepared to perform satisfactorily on, as applicable:
 - (1) the grade five assessment instruments;
 - (2) the grade eight assessment instruments; and
 - (3) the end-of-course assessment instruments required under this subchapter for graduation.
- (d-1) The agency shall report the necessary annual improvement required under Subsection (d) to the district. Each year, the report must state whether the student fell below, met, or exceeded the necessary target for improvement.
- (e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 895, Sec. 66(1), eff. June 19, 2009.
- (f) Repealed by Acts 2009, 81st Leg., R.S., Ch. 895, Sec. 66(1), eff. June 19, 2009.
- (g) Repealed by Acts 2009, 81st Leg., R.S., Ch. 895, Sec. 66(1), eff. June 19, 2009.

§39.035. Limitation on Field Testing of Assessment Instruments. Citation not included here.

§39.0351. Limitation on Field Testing of Assessment Instruments. Citation not included here.

§39.036. Vertical Scale for Certain Assessment Instruments

- (a) The agency shall develop a vertical scale for assessing student performance on assessment instruments administered under Sections 39.023(a)(1) and (2) in a manner that allows the agency to compare the performance of a student on the assessment instruments from one grade level to the next.
- (b) The commissioner shall adopt rules necessary to implement this section.

§39.037. International Assessment Instrument Program. Citation not included here.

Subchapter C. Accreditation

§39.051. Accreditation Status.

Accreditation of a school district is determined in accordance with this subchapter. The commissioner by rule shall determine in accordance with this subchapter the criteria for the following accreditation statuses:

- (1) accredited;
- (2) accredited-warned; and
- (3) accredited-probation.

§39.052. Determination of Accreditation Status or Performance Rating.

- (a) Each year, the commissioner shall determine the accreditation status of each school district.
- (b) In determining the accreditation status of a school district, the commissioner:
 - (1) shall evaluate and consider:
 - (A) performance on student achievement indicators described by Section 39.053(c); and
 - (B) performance under the financial accountability rating system developed under Subchapter D; and
 - (2) may evaluate and consider:
 - (A) the district's compliance with statutory requirements and requirements imposed by rule of the commissioner or State Board of Education under specific statutory authority that relate to:
 - (i) reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;
 - (ii) the high school graduation requirements under Section 28.025; or
 - (iii) an item listed under Sections 7.056(e)(3)(C)-(I) that applies to the district;
 - (B) the effectiveness of the district's programs for special populations; and
 - (C) the effectiveness of the district's career and technology program.
- (c) Based on a school district's performance under Subsection (b), the commissioner shall:
 - (1) assign each district an accreditation status; or
 - (2) revoke the accreditation of the district and order closure of the district.
- (d) A school district's accreditation status may be raised or lowered based on the district's performance or may be lowered based on the performance of one or more campuses in the district that is below a standard required under this subchapter.
- (e) The commissioner shall notify a school district that receives an accreditation status of accredited-warned or accredited-probation or a campus that performs below a standard required under this subchapter that the performance of the district or campus is below a standard required under this subchapter. The commissioner shall require the district to notify the parents of students enrolled in the district and property owners in the district of the district's accreditation status and the implications of that accreditation status.
- (f) A school district that is not accredited may not receive funds from the agency or hold itself out as operating a public school of this state.
- (g) This chapter may not be construed to invalidate a diploma awarded, course credit earned, or grade promotion granted by a school district before the commissioner revoked the district's accreditation.

§39.053. Performance Indicators: Student Achievement.

- (a) The commissioner shall adopt a set of indicators of the quality of learning and student achievement. The commissioner biennially shall review the indicators for the consideration of appropriate revisions.
- (b) Performance on the student achievement indicators adopted under this section shall be compared to state-established standards. The indicators must be based on information that is disaggregated by race, ethnicity, and socioeconomic status.

§39.053. Performance Indicators: Student Achievement. cont.

- (c) Indicators of student achievement adopted under this section must include:
 - (1) the results of assessment instruments required under Sections 39.023(a), (c), and (l), including the results of assessment instruments required for graduation retaken by a student, aggregated across grade levels by subject area, including:
 - (A) for the performance standard determined by the commissioner under Section 39.0241(a):
 - (i) the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and
 - (ii) for students who did not perform satisfactorily, the percentage of students who met the standard for annual improvement, as determined by the agency under Section 39.034, on the assessment instruments, aggregated across grade levels by subject area; and
 - (B) for the college readiness performance standard as determined under Section 39.0241:
 - (i) the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and
 - (ii) for students who did not perform satisfactorily, the percentage of students who met the standard for annual improvement, as determined by the agency under Section 39.034, on the assessment instruments, aggregated across grade levels by subject area;
 - (2) dropout rates, including dropout rates and district completion rates for grade levels 9 through 12, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education; and
 - (3) high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.).
- (d) For purposes of Subsection (c), the commissioner by rule shall determine the period within which a student must retake an assessment instrument for that assessment instrument to be considered in determining the performance rating of the district under Section 39.054.
- (e) Performance on the student achievement indicators under Subsections (c)(1) and (2) shall be compared to state standards and required improvement. The state standard shall be established by the commissioner. Required improvement is the progress necessary for the campus or district to meet state standards and, for the student achievement indicator under Subsection (c)(1), for its students to meet each of the performance standards as determined under Section 39.0241.
- (f) Annually, the commissioner shall define the state standard for the current school year for each student achievement indicator described by Subsection (c) and shall project the state standards for each indicator for the following two school years. The commissioner shall periodically raise the state standards for the student achievement indicator described by Subsection (c)(1)(B)(i) for accreditation as necessary to reach the goals of achieving, by not later than the 2019-2020 school year:
 - (1) student performance in this state, disaggregated by race, ethnicity, and socioeconomic status, that ranks nationally in the top 10 states in terms of college readiness; and
 - (2) student performance, including the percentage of students graduating under the recommended or advanced high school program, with no significant achievement gaps by race, ethnicity, and socioeconomic status.
- (g) In defining the required state standard for the indicator described by Subsection (c)(2), the commissioner may not consider as a dropout a student whose failure to attend school results from:
 - (1) the student's expulsion under Section 37.007; and
 - (2) as applicable:
 - (A) adjudication as having engaged in delinquent conduct or conduct indicating a need for supervision, as defined by Section 51.03, Family Code; or

§39.053. Performance Indicators: Student Achievement. cont.

- (B) conviction of and sentencing for an offense under the Penal Code.
- (g-1) In computing dropout and completion rates under Subsection (c)(2), the commissioner shall exclude:
 - (1) students who are ordered by a court to attend a high school equivalency certificate program but who have not yet earned a high school equivalency certificate;
 - (2) students who were previously reported to the state as dropouts;
 - (3) students in attendance who are not in membership for purposes of average daily attendance;
 - (4) students whose initial enrollment in a school in the United States in grades 7 through 12 was as unschooled refugees or asylees as defined by Section 39.027(a-1);
 - (5) students who are in the district exclusively as a function of having been detained at a county detention facility but are otherwise not students of the district in which the facility is located; and
 - (6) students who are incarcerated in state jails and federal penitentiaries as adults and as persons certified to stand trial as adults.
- (h) Each school district shall cooperate with the agency in determining whether a student is a dropout for purposes of accreditation and evaluating performance by school districts and campuses under this chapter.
- (i) The commissioner by rule shall adopt accountability measures to be used in assessing the progress of students who have failed to perform satisfactorily as determined by the commissioner under Section 39.0241(a) or under the college readiness standard as determined under Section 39.0241 in the preceding school year on an assessment instrument required under Section 39.023(a), (c), or (l).

§39.054. Methods and Standards for Evaluating Performance.

- (a) The commissioner shall adopt rules to evaluate school district and campus performance and, not later than August 8 of each year, assign each district and campus a performance rating that reflects acceptable performance or unacceptable performance. If a district or campus received a performance rating of unacceptable performance for the preceding school year, the commissioner shall notify the district of a subsequent such designation on or before June 15.
- (b) In evaluating performance, the commissioner shall evaluate against state standards and consider the performance of each campus in a school district and each open-enrollment charter school on the basis of the campus's or school's performance on the student achievement indicators adopted under Section 39.053(c).
- (b-1) Consideration of the effectiveness of district programs under Section 39.052(b)(2)(B) or (C):
 - (1) must:
 - (A) be based on data collected through the Public Education Information Management System (PEIMS) for purposes of accountability under this chapter; and
 - (B) include the results of assessments required under Section 39.023; and
 - (2) may be based on the results of a special accreditation investigation conducted under Section 39.057.
- (c) In evaluating school district and campus performance on the student achievement indicators adopted under Sections 39.053(c)(1) and (2), the commissioner shall define acceptable performance as meeting the state standard determined by the commissioner under Section 39.053(e) for the current school year based on:
 - (1) student performance in the current school year; or
 - (2) student performance as averaged over the current school year and the preceding two school years.
- (d) In evaluating performance under Subsection (c), the commissioner:
 - (1) may assign an acceptable performance rating if the campus or district:
 - (A) performs satisfactorily on 85 percent of the measures the commissioner determines appropriate with respect to the student achievement indicators adopted under Sections 39.053(c)(1) and (2); and

§39.054. Methods and Standards for Evaluating Performance. cont.

- (B) does not fail to perform satisfactorily on the same measure described by Paragraph (A) for two consecutive school years;
- (2) may grant an exception under this subsection to a district or campus only if the performance of the district or campus is within a certain percentage, as determined by the commissioner, of the minimum performance standard established by the commissioner for the measure of evaluation; or
- (3) may establish other performance criteria for a district or campus to obtain an exception under this subsection.
- (d-1) The commissioner may consider alternative performance criteria to Subsection (d)(1)(A) only in special circumstances, including campus or district performance on the same measure for student groups that are substantially similar in composition to all students on the same campus or district.
- (e) Each annual performance review under this section shall include an analysis of the student achievement indicators adopted under Section 39.053(c) to determine school district and campus performance in relation to:
 - (1) standards established for each indicator; and
 - (2) required improvement as defined under Section 39.053(e).
- (f) In the computation of dropout rates under Section 39.053(c)(2), a student who is released from a juvenile pre-adjudication secure detention facility or juvenile post-adjudication secure correctional facility and fails to enroll in school or a student who leaves a residential treatment center after receiving treatment for fewer than 85 days and fails to enroll in school may not be considered to have dropped out from the school district or campus serving the facility or center unless that district or campus is the one to which the student is regularly assigned. The agency may not limit an appeal relating to dropout computations under this subsection.

§39.055. Student Ordered by a Juvenile Court Not Considered for Accountability Purposes.

Notwithstanding any other provision of this code, for purposes of determining the performance of a school district or campus under this chapter, a student ordered by a juvenile court into a residential program or facility operated by or under contract with the Texas Youth Commission, the Texas Juvenile Probation Commission, a juvenile board, or any other governmental entity is not considered to be a student of the school district in which the program or facility is physically located. The performance of such a student on an assessment instrument or other student achievement indicator adopted under Section 39.053 or reporting indicator adopted under Section 39.301 shall be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located.

§39.056. On-Site Investigations. Citation not included here.

§39.057. Special Accreditation Investigations. Citation not included here.

§39.058. Conduct of Investigations. Citation not included here.

Subchapter D. Financial Accountability.

§39.081. Definitions. Citation not included here.

§39.082. Development and Implementation. Citation not included here.

§39.0821. Comptroller Review of Resource Allocation Practices. Citation not included here.

§39.0822. Financial Solvency Review Required. Citation not included here.

§39.0823. Projected Deficit. Citation not included here.

§39.083. Reporting. Citation not included here.

§39.084. Posting of Adopted Budget. Citation not included here.

§39.085. Rules. Citation not included here.

Section number assigned.

[§39.086] §39.205. Software Standards. Citation not included here.

Subchapter E. Accreditation Interventions and Sanctions.

§39.102. Interventions and Sanctions for Districts. Citation not included here.

§39.103. Interventions and Sanctions for Campuses. Citation not included here.

§39.104. Interventions and Sanctions for Charter Schools. Citation not included here.

§39.105. Campus Improvement Plan. Citation not included here.

§39.106. Campus Intervention Team. Citation not included here.

§39.107. Reconstitution, Repurposing, Alternative Management, and Closure. Citation not included here.

§39.108. Annual Review. Citation not included here.

§39.109. Acquisition of Professional Services. Citation not included here.

§39.110. Costs Paid by District. Citation not included here.

§39.111. Conservator or Management Team. Citation not included here.

§39.112. Board of Managers. Citation not included here.

§39.113. Campus Intervention Team. Citation not included here.

§39.114. Immunity from Civil Liberty. Citation not included here.

§39.115. Campus Name Change Prohibited. Citation not included here.

For expiration of this section, see Subsection (g).

§39.116. Transitional Interventions and Sanctions. Citation not included here.

Subchapter F. Procedures for Challenge of Accountability Determination, Intervention, or Sanction

§39.151. Review by Commissioner: Accountability Determination.

- (a) The commissioner by rule shall provide a process for a school district or open-enrollment charter school to challenge an agency decision made under this chapter relating to an academic or financial accountability rating that affects the district or school.
- (b) The rules under Subsection (a) must provide for the commissioner to appoint a committee to make recommendations to the commissioner on a challenge made to an agency decision relating to an academic performance rating or determination or financial accountability rating. The commissioner may not appoint an agency employee as a member of the committee.

§39.151. Review by Commissioner: Accountability Determination. cont.

- (c) The commissioner may limit a challenge under this section to a written submission of any issue identified by the school district or open-enrollment charter school challenging the agency decision.
- (d) The commissioner shall make a final decision under this section after considering the recommendation of the committee described by Subsection (b). The commissioner's decision may not be appealed under Section 7.057 or other law.
- (e) A school district or open-enrollment charter school may not challenge an agency decision relating to an academic or financial accountability rating under this chapter in another proceeding if the district or school has had an opportunity to challenge the decision under this section.

§39.152. Review by State Office of Administrative Hearings: Sanctions. Citation not included here.

Subchapter G. Distinction Designations

§39.201. Distinction Designations. Not later than August 8 of each year, the commissioner shall award distinction designations under this subchapter. A district or campus may not be awarded a distinction designation under this subchapter unless the district or campus has acceptable performance under Section 39.054.

§39.202. Academic Excellence Distinction Designation for Districts and Campuses.

The commissioner by rule shall establish a recognized and exemplary rating for awarding districts and campuses an academic distinction designation under this subchapter. In establishing the recognized and exemplary ratings, the commissioner shall adopt criteria for the ratings, including:

- (1) percentages of students who:
 - (A) performed satisfactorily, as determined under the college readiness performance standard under Section 39.0241, on assessment instruments required under Section 39.023(a), (b), (c), or (l), aggregated across grade levels by subject area; or
 - (B) met the standard for annual improvement, as determined by the agency under Section 39.034, on assessment instruments required under Section 39.023(a), (b), (c), or (l), aggregated across grade levels by subject area, for students who did not perform satisfactorily as described by Paragraph (A); and
- (2) other factors for determining sufficient student attainment of postsecondary readiness.

§39.203. Campus Distinction Designations.

- (a) The commissioner shall award a campus a distinction designation if the campus is ranked in the top 25 percent of campuses in the state in annual improvement in student achievement as determined under Section 39.034.
- (b) In addition to the distinction designation described by Subsection(a), the commissioner shall award a campus a distinction designation if the campus demonstrates an ability to significantly diminish or eliminate performance differentials between student subpopulations and is ranked in the top 25 percent of campuses in this state under the performance criteria described by this subsection. The commissioner shall adopt rules related to the distinction designation under this subsection to ensure that a campus does not artificially diminish or eliminate performance differentials through inhibiting the achievement of the highest achieving student subpopulation.
- (c) In addition to the distinction designations described by Subsections (a) and (b), a campus that satisfies the criteria developed under Section 39.204 shall be awarded a distinction designation by the commissioner for the following programs or the following specific categories of performance:
 - (1) academic achievement in English language arts, mathematics, science, or social studies;
 - (2) fine arts;
 - (3) physical education;
 - (4) 21st Century Workforce Development program; and
 - (5) second language acquisition program.

§39.204. Campus Distinction Designation Criteria; Committees.

- (a) The commissioner by rule shall establish:
 - (1) standards for considering campuses for distinction designations under Section 39.203(c); and
 - (2) methods for awarding distinction designations to campuses.
- (b) In adopting rules under this section, the commissioner shall establish a separate committee to develop criteria for each distinction designation under Section 39.203(c).
- (c) Each committee established under this section must include:
 - (1) individuals who practice as professionals in the content area relevant to the distinction designation, as applicable;
 - (2) individuals with subject matter expertise in the content area relevant to the distinction designation;
 - (3) educators with subject matter expertise in the content area relevant to the distinction designation; and
 - (4) community leaders, including leaders from the business community.
- (d) For each committee, the governor, lieutenant governor, and speaker of the house of representatives may each appoint a person described by each subdivision of Subsection (c).
- (e) In developing criteria for distinction designations under this section, each committee shall:
 - (1) identify a variety of indicators for measuring excellence; and
 - (2) consider categories for distinction designations, with criteria relevant to each category, based on:
 - (A) the level of a program, whether elementary school, middle or junior high school, or high school; and
 - (B) the student enrollment of a campus.

Subchapter H. Additional Awards.**§39.232. Excellence Exemptions.**

- (a) Except as provided by Subsection (b), a school campus or district that is rated exemplary under Subchapter G is exempt from requirements and prohibitions imposed under this code including rules adopted under this code.
- (b) A school campus or district is not exempt under this section from:
 - (1) a prohibition on conduct that constitutes a criminal offense;
 - (2) requirements imposed by federal law or rule, including requirements for special education or bilingual education programs; or
 - (3) a requirement, restriction, or prohibition relating to:
 - (A) curriculum essential knowledge and skills under Section 28.002 or high school graduation requirements under Section 28.025;
 - (B) public school accountability as provided by Subchapters B, C, D, E, and J;
 - (C) extracurricular activities under Section 33.081;
 - (D) health and safety under Chapter 38;
 - (E) purchasing under Subchapter B, Chapter 44;
 - (F) elementary school class size limits, except as provided by Subsection (d) or Section 25.112;
 - (G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;
 - (H) at risk programs under Subchapter C, Chapter 29;
 - (I) prekindergarten programs under Subchapter E, Chapter 29;
 - (J) rights and benefits of school employees;
 - (K) special education programs under Subchapter A, Chapter 29; or
 - (L) bilingual education programs under Subchapter B, Chapter 29. (c) The agency shall monitor and evaluate deregulation of a school campus or district under this section and Section 7.056.

§39.232. Excellence Exemptions. cont.

- (d) The commissioner may exempt an exemplary school campus under Subchapter G from elementary class size limits under this section if the school campus submits to the commissioner a written plan showing steps that will be taken to ensure that the exemption from the class size limits will not be harmful to the academic achievement of the students on the school campus. The commissioner shall review achievement levels annually. The exemption remains in effect until the commissioner determines that achievement levels of the campus have declined.

§39.233. Recognition of High School Completion and Success and College Readiness Programs.

- (a) The agency shall:
 - (1) develop standards for evaluating the success and cost effectiveness of high school completion and success and college readiness programs implemented under Section 39.234;
 - (2) provide guidance for school districts and campuses in establishing and improving high school completion and success and college readiness programs implemented under Section 39.234; and
 - (3) develop standards for selecting and methods for recognizing school districts and campuses that offer exceptional high school completion and success and college readiness programs under Section 39.234.
- (b) The commissioner may adopt rules for the administration of this section.

§39.243. Use of High School Allotment.

- (a) Except as provided by Subsection (b), a school district or campus must use funds allocated under Section 42.160 to:
 - (1) implement or administer a college readiness program that provides academic support and instruction to prepare underachieving students for entrance into an institution of higher education;
 - (2) implement or administer a program that encourages students to pursue advanced academic opportunities, including early college high school programs and dual credit, advanced placement, and international baccalaureate courses;
 - (3) implement or administer a program that provides opportunities for students to take academically rigorous course work, including four years of mathematics and four years of science at the high school level;
 - (4) implement or administer a program, including online course support and professional development, that aligns the curriculum for grades six through 12 with postsecondary curriculum and expectations; or
 - (5) implement or administer other high school completion and success initiatives in grades six through 12 approved by the commissioner.
- (b) A school district may use funds allocated under Section 42.160 on any instructional program in grades six through 12 other than an athletic program if:
 - (1) the district's measure of progress toward college readiness is determined exceptional by a standard set by the commissioner; and
 - (2) the district's completion rates for grades nine through 12 exceed completion rate standards required by the commissioner to achieve a status of accredited under Section 39.051.
- (c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1328, Sec.105(a)(5), eff. September 1, 2009.
- (d) The commissioner shall adopt rules to administer this section, including rules related to the permissible use of funds allocated under this section to an open-enrollment charter school.

§39.235. Innovation Grant Initiative for Middle, Junior High, and High School Campuses. Citation not included here.

§39.236. Gifted and Talented Standards. Citation not included here.

Subchapter I. Successful School Awards.

§39.261. Creation of System. Citation not included here.

§39.262. Types of Awards. Citation not included here.

§39.263. Awards. Citation not included here.

§39.264. Use of Awards. Citation not included here.

§39.265. Funding. Citation not included here.

§39.266. Confidentiality. Citation not included here.

Subchapter J. Parent and Educator Reports.

§39.301. Additional Performance Indicators: Reporting.

- (a) In addition to the indicators adopted under Section 39.053, the commissioner shall adopt indicators of the quality of learning for the purpose of preparing reports under this chapter. The commissioner biennially shall review the indicators for the consideration of appropriate revisions.
- (b) Performance on the indicators adopted under this section shall be evaluated in the same manner provided for evaluation of the student achievement indicators under Section 39.053(c).
- (c) Indicators for reporting purposes must include:
 - (1) the percentage of graduating students who meet the course requirements established by State Board of Education rule for the minimum high school program, the recommended high school program, and the advanced high school program;
 - (2) the results of the SAT, ACT, articulated postsecondary degree programs described by Section 61.852, and certified workforce training programs described by Chapter 311, Labor Code;
 - (3) for students who have failed to perform satisfactorily, under each performance standard under Section 39.0241, on an assessment instrument required under Section 39.023(a) or (c), the performance of those students on subsequent assessment instruments required under those sections, aggregated by grade level and subject area;
 - (4) for each campus, the number of students, disaggregated by major student subpopulations, that agree under Section 28.025(b) to take courses under the minimum high school program;
 - (5) the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211(c), the results of assessment instruments administered under that section, the percentage of students promoted through the grade placement committee process under Section 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard under Section 39.0241, and the performance of those students in the school year following that promotion on the assessment instruments required under Section 39.023;
 - (6) the percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Sections 39.027(a)(1) and (2);
 - (7) the percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Section 39.023(b);
 - (8) the percentage of students who satisfy the college readiness measure;
 - (9) the measure of progress toward dual language proficiency under Section 39.034(b), for students of limited English proficiency, as defined by Section 29.052;
 - (10) the percentage of students who are not educationally disadvantaged;
 - (11) the percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and

§39.301. Additional Performance Indicators: Reporting. cont.

- (12) the percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.
- (d) Performance on the indicators described by Section 39.053(c) and Subsections (c)(3), (4), and (9) must be based on longitudinal student data that is disaggregated by the bilingual education or special language program, if any, in which students of limited English proficiency, as defined by Section 29.052, are or former students of limited English proficiency were enrolled. If a student described by this subsection is not or was not enrolled in specialized language instruction, the number and percentage of those students shall be provided.
- (e) Section 39.055 applies in evaluating indicators described by Subsection (c).

§39.302. Report to District: Comparisons for Annual Report Assessment.

- (a) The agency shall report to each school district the comparisons of student performance made under Section 39.034.
- (b) To the extent practicable, the agency shall combine the report of comparisons with the report of the student's performance on assessment instruments under Section 39.023.

§39.303. Report to Parents.

- (a) The school district a student attends shall provide a record of the comparisons made under Section 39.034 and provided to the district under Section 39.302 in a written notice to the student's parent or other person standing in parental relationship.
- (b) For a student who failed to perform satisfactorily as determined under either performance standard under Section 39.0241 on an assessment instrument administered under Section 39.023(a), (c), or (l), the school district shall include in the notice specific information relating to access to online educational resources at the appropriate assessment instrument content level, including educational resources described by Section 32.252(b)(2) and assessment instrument questions and answers released under Section 39.023(e).

§39.304. Teacher Report Card.

- (a) Each school district shall prepare a report of the comparisons made under Section 39.034 and provided to the district under Section 39.302 and provide the report at the beginning of the school year to:
 - (1) each teacher for all students, including incoming students, who were assessed on an assessment instrument under Section 39.023; and
 - (2) all students under Subdivision (1) who were provided instruction by that teacher in the subject for which the assessment instrument was administered under Section 39.023.
- (b) The report shall indicate whether the student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement under Section 39.034.

§39.305. Campus Report Card.

- (a) Each school year, the agency shall prepare and distribute to each school district a report card for each campus. The campus report cards must be based on the most current data available disaggregated by student groups. Campus performance must be compared to previous campus and district performance, current district performance, and state established standards.
- (b) The report card shall include the following information:
 - (1) where applicable, the student achievement indicators described by Section 39.053(c) and the reporting indicators described by Sections 39.301(c)(1) through (5);
 - (2) average class size by grade level and subject;
 - (3) the administrative and instructional costs per student, computed in a manner consistent with Section 44.0071; and
 - (4) the district's instructional expenditures ratio and instructional employees ratio computed under Section 44.0071, and the statewide average of those ratios, as determined by the commissioner.

§39.305. Campus Report Card. cont.

- (c) The commissioner shall adopt rules requiring dissemination of the information required under Subsection (b)(4) and appropriate class size and student performance portions of campus report cards annually to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, the school district shall provide a copy of a campus report card to any other party.

§39.306. Performance Report.

- (a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:
 - (1) campus performance objectives established under Section 11.253 and the progress of each campus toward those objectives, which shall be available to the public;
 - (2) information indicating the district's accreditation status and identifying each district campus awarded a distinction designation under Subchapter G or considered an unacceptable campus under Subchapter E;
 - (3) the district's current special education compliance status with the agency;
 - (4) a statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);
 - (5) information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students;
 - (6) the findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.); and
 - (7) information received under Section 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner.
- (b) Supplemental information to be included in the reports shall be determined by the board of trustees. Performance information in the annual reports on the indicators described by Sections 39.053 and 39.301 and descriptive information required by this section shall be provided by the agency.
- (c) The board of trustees shall hold a hearing for public discussion of the report. The board of trustees shall give notice of the hearing to property owners in the district and parents of and other persons standing in parental relation to a district student. The notification must include notice to a newspaper of general circulation in the district and notice to electronic media serving the district. After the hearing the report shall be widely disseminated within the district in a manner to be determined under rules adopted by the commissioner.
- (d) The report must also include a comparison provided by the agency of:
 - (1) the performance of each campus to its previous performance and to state-established standards; and
 - (2) the performance of each district to its previous performance and to state-established standards.
- (e) The report may include the following information:
 - (1) student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;
 - (2) financial information, including revenues and expenditures;
 - (3) staff information, including number and type of staff by sex, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover;
 - (4) program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and
 - (5) the number of students placed in a disciplinary alternative education program under Chapter 37.

§39.306. Performance Report. cont.

- (f) The commissioner by rule shall authorize the combination of this report with other reports and financial statements and shall restrict the number and length of reports that school districts, school district employees, and school campuses are required to prepare.
- (g) The report must include a statement of the amount, if any, of the school district's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents.

§39.307. Uses of Performance Report.

The information required to be reported under Section 39.306 shall be:

- (1) the subject of public hearings or meetings required under Sections 11.252, 11.253, and 39.306;
- (2) a primary consideration in school district and campus planning; and
- (3) a primary consideration of:
 - (A) the State Board of Education in the evaluation of the performance of the commissioner;
 - (B) the commissioner in the evaluation of the performance of the directors of the regional education service centers;
 - (C) the board of trustees of a school district in the evaluation of the performance of the superintendent of the district; and
 - (D) the superintendent in the evaluation of the performance of the district's campus principals.

§39.308. Annual Audit of Dropout Records; Report. Citation not included here.**Subchapter K. Reports by Texas Education Agency****§39.331. General Requirements.**

- (a) Each report required by this subchapter must:
 - (1) unless otherwise specified, contain summary information and analysis only, with an indication that the agency will provide the data underlying the report on request;
 - (2) specify a person at the agency who may be contacted for additional information regarding the report and provide the person's telephone number; and
 - (3) identify other sources of related information, indicating the level of detail and format of information that may be obtained, including the availability of any information on the Texas Education Network.
- (b) Each component of a report required by this subchapter must:
 - (1) identify the substantive goal underlying the information required to be reported;
 - (2) analyze the progress made and longitudinal trends in achieving the underlying substantive goal;
 - (3) offer recommendations for improved progress in achieving the underlying substantive goal; and
 - (4) identify the relationship of the information required to be reported to state education goals.
- (c) Unless otherwise provided, each report required by this subchapter is due not later than December 1 of each even-numbered year.
- (d) Subsections (a) and (b) apply to any report required by statute that the agency or the State Board of Education must prepare and deliver to the governor, lieutenant governor, speaker of the house of representatives, or legislature.
- (e) Unless otherwise provided by law, any report required by statute that the agency or the State Board of Education must prepare and deliver to the governor, lieutenant governor, speaker of the house of representatives, or legislature may be combined, at the discretion of the commissioner, with a report required by this subchapter.

§39.332. Comprehensive Annual Report.

- (a) Not later than December 1 of each year, the agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a comprehensive report covering the preceding school year and containing the information described by Subsection (b).
- (b)
 - (1) The report must contain an evaluation of the achievements of the state educational program in relation to the statutory goals for the public education system under Section 4.002.
 - (2) The report must contain an evaluation of the status of education in the state as reflected by:
 - (A) the student achievement indicators described by Section 39.053; and
 - (B) the reporting indicators described by Section 39.301.
 - (3) The report must contain a summary compilation of overall student performance on academic skills assessment instruments required by Section 39.023 with the number and percentage of students exempted from the administration of those instruments and the basis of the exemptions, aggregated by grade level, subject area, campus, and district, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.
 - (4) The report must contain a summary compilation of overall performance of students placed in a disciplinary alternative education program established under Section 37.008 on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.
 - (5) The report must contain a summary compilation of overall performance of students at risk of dropping out of school, as defined by Section 29.081(d), on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status.
 - (6) The report must contain an evaluation of the correlation between student grades and student performance on academic skills assessment instruments required by Section 39.023.
 - (7) The report must contain a statement of the dropout rate of students in grade levels 7 through 12, expressed in the aggregate and by grade level, and a statement of the completion rates of students for grade levels 9 through 12.
 - (8) The report must contain a statement of:
 - (A) the completion rate of students who enter grade level 9 and graduate not more than four years later;
 - (B) the completion rate of students who enter grade level 9 and graduate, including students who require more than four years to graduate;
 - (C) the completion rate of students who enter grade level 9 and not more than four years later receive a high school equivalency certificate;
 - (D) the completion rate of students who enter grade level 9 and receive a high school equivalency certificate, including students who require more than four years to receive a certificate; and
 - (E) the number and percentage of all students who have not been accounted for under Paragraph (A), (B), (C), or (D).
 - (9) The report must contain a statement of the projected crosssectional and longitudinal dropout rates for grade levels 9 through 12 for the next five years, assuming no state action is taken to reduce the dropout rate.
 - (10) The report must contain a description of a systematic, measurable plan for reducing the projected cross-sectional and longitudinal dropout rates to five percent or less.

§39.332. Comprehensive Annual Report. cont.

- (11) The report must contain a summary of the information required by Section 29.083 regarding grade level retention of students and information concerning:
 - (A) the number and percentage of students retained; and
 - (B) the performance of retained students on assessment instruments required under Section 39.023(a).
- (12) The report must contain information, aggregated by district type and disaggregated by race, ethnicity, gender, and socioeconomic status, on:
 - (A) the number of students placed in a disciplinary alternative education program established under Section 37.008;
 - (B) the average length of a student's placement in a disciplinary alternative education program established under Section 37.008;
 - (C) the academic performance of students on assessment instruments required under Section 39.023(a) during the year preceding and during the year following placement in a disciplinary alternative education program; and
 - (D) the dropout rates of students who have been placed in a disciplinary alternative education program established under Section 37.008.
- (13) The report must contain a list of each school district or campus that does not satisfy performance standards, with an explanation of the actions taken by the commissioner to improve student performance in the district or campus and an evaluation of the results of those actions.
- (14) The report must contain an evaluation of the status of the curriculum taught in public schools, with recommendations for legislative changes necessary to improve or modify the curriculum required by Section 28.002.
- (15) The report must contain a description of all funds received by and each activity and expenditure of the agency.
- (16) The report must contain a summary and analysis of the instructional expenditures ratios and instructional employees ratios of school districts computed under Section 44.0071.
- (17) The report must contain a summary of the effect of deregulation, including exemptions and waivers granted under Section 7.056 or 39.232.
- (18) The report must contain a statement of the total number and length of reports that school districts and school district employees must submit to the agency, identifying which reports are required by federal statute or rule, state statute, or agency rule, and a summary of the agency's efforts to reduce overall reporting requirements.
- (19) The report must contain a list of each school district that is not in compliance with state special education requirements, including:
 - (A) the period for which the district has not been in compliance;
 - (B) the manner in which the agency considered the district's failure to comply in determining the district's accreditation status; and
 - (C) an explanation of the actions taken by the commissioner to ensure compliance and an evaluation of the results of those actions.
- (20) The report must contain a comparison of the performance of open-enrollment charter schools and school districts on the student achievement indicators described by Section 39.053(c), the reporting indicators described by Section 39.301(c), and the accountability measures adopted under Section 39.053(i), with a separately aggregated comparison of the performance of open-enrollment charter schools predominantly serving students at risk of dropping out of school, as described by Section 29.081(d), with the performance of school districts.
- (21) The report must contain a summary of the information required by Section 38.0141 regarding student health and physical activity from each school district.
- (22) The report must contain a summary compilation of overall student performance under the assessment system developed to evaluate the longitudinal academic progress as required by Section 39.027(e), disaggregated by bilingual education or special language program instructional model, if any.

§39.332. Comprehensive Annual Report. cont.

- (23) The report must contain any additional information considered important by the commissioner or the State Board of Education.
- (c) In reporting the information required by Subsection (b)(3) or (4), the agency may separately aggregate the performance data of students enrolled in a special education program under Subchapter A, Chapter 29.
- (d) In reporting the information required by Subsections (b)(3), (5), and (7), the agency shall separately aggregate the longitudinal performance data of all students identified as students of limited English proficiency, as defined by Section 29.052, or former students of limited English proficiency, disaggregated by bilingual education or special language program instructional model, if any, in which the students are or were enrolled.
- (e) Each report must contain the most recent data available.

§39.333. Regional and District Level Report.

The agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system regional and district level report covering the preceding two school years and containing:

- (1) a summary of school district compliance with the student/teacher ratios and class-size limitations prescribed by Sections 25.111 and 25.112, including:
 - (A) the number of campuses and classes at each campus granted an exception from Section 25.112; and
 - (B) for each campus granted an exception from Section 25.112, a statement of whether the campus has been awarded a distinction designation under Subchapter G or has been identified as an unacceptable campus under Subchapter E;
- (2) a summary of the exemptions and waivers granted to campuses and school districts under Section 7.056 or 39.232 and a review of the effectiveness of each campus or district following deregulation;
- (3) an evaluation of the performance of the system of regional education service centers based on the indicators adopted under Section 8.101 and client satisfaction with services provided under Subchapter B, Chapter 8;
- (4) an evaluation of accelerated instruction programs offered under Section 28.006, including an assessment of the quality of such programs and the performance of students enrolled in such programs; and
- (5) the number of classes at each campus that are currently being taught by individuals who are not certified in the content areas of their respective classes.

§39.334. Technology Report. Citation not included here.**§39.335. Interim Report.**

Not later than December 1 of each odd-numbered year, the agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system an interim report containing, for the previous school year, the information required by Section 39.333(2).

Subchapter L. Notice of Performance**§39.361. Notice in Student Grade Report.**

The first written notice of a student's performance that a school district gives during a school year as required by Section 28.022(a)(2) must include:

- (1) a statement of whether the campus at which the student is enrolled has been awarded a distinction designation under Subchapter G or has been identified as an unacceptable campus under Subchapter E; and
- (2) an explanation of the significance of the information provided under Subdivision (1).

§39.362. Notice on District Website.

Not later than the 10th day after the first day of instruction of each school year, a school district that maintains an Internet website shall make the following information available to the public on the website:

- (1) the information contained in the most recent campus report card for each campus in the district under Section 39.305;
- (2) the information contained in the most recent performance report for the district under Section 39.306;
- (3) the most recent accreditation status and performance rating of the district under Sections 39.052 and 39.054; and
- (4) a definition and explanation of each accreditation status under Section 39.051, based on commissioner rule adopted under that section.

Subchapter M. High School Completion and Success Initiative

§39.401. Definition. Citation not included here.

§39.402. High School Completion and Success Initiative Council. Citation not included here.

§39.403. Terms. Citation not included here.

§39.404. Presiding Officer. Citation not included here.

§39.405. Compensation and Reimbursement. Citation not included here.

§39.406. Council Staff and Funding. Citation not included here.

§39.407. Strategic Plan. Citation not included here.

§39.408. Eligibility Criteria for Certain Grant Programs. Citation not included here.

§39.409. Private Foundation Partnerships. Citation not included here.

§39.410. Grant Program Evaluation. Citation not included here.

§39.411. Council Recommendations. Citation not included here.

§39.412. Funding Provided to School Districts. Citation not included here.

§39.413. Funding for Certain Programs. Citation not included here.

§39.414. Private Funding. Citation not included here.

§39.415. Reports. Citation not included here.

§39.416. Rules. Citation not included here.

Texas Administrative Code (TAC) Related to Accountability

TAC Chapter 61. School Districts

Subchapter BB. Commissioner's Rules on Reporting Requirements

§61.1021. School Report Cards.

- (a) The campus report card disseminated by the Texas Education Agency (TEA) under the Texas Education Code, §39.052, shall be termed the "school" report card (SRC).
- (b) The intent of the SRC is to inform each student's parents or guardians about the school's performance and characteristics. Where possible, the SRC will present the school information in relation to the district, the state, and a comparable group of schools. The SRC will present the student, staff, financial, and performance information required by statute, as well as any explanations and additional information deemed appropriate to the intent of the report.
- (c) The SRC must be disseminated within six weeks after it is received from TEA.
- (d) The campus administration may provide the SRC in the same manner it would normally transmit official communications to parents and guardians, such as: including the SRC in a weekly folder sent home with each student, mailing it to the student's residence, providing it at a teacher-parent conference, or enclosing it with the student report card.
- (e) The school may not alter the report provided by TEA; however, it may concurrently provide additional information to the parents or guardians that supplements or explains information in the SRC.

§61.1022. Academic Excellence Indicator System Report.

- (a) The performance report provided by the Texas Education Agency (TEA) under the Texas Education Code, §39.053, shall be termed the Academic Excellence Indicator System (AEIS) report.
- (b) The intent of the AEIS report is to inform the public about the educational performance of the district and of each campus in the district in relation to the district, the state, and a comparable group of schools. The AEIS report will present the campus performance information as well as student, staff, and financial information required by statute. It will also include any explanations and additional information deemed appropriate to the intent of the report.
- (c) The hearing for public discussion of the AEIS report must be held within 90 days after the report is received from TEA.
- (d) The AEIS report must be published within two weeks after the public hearing. It must be published in the same format as it was received from TEA.
- (e) The district may not alter the report provided by TEA; however, it may concurrently provide additional information to the public that supplements or explains information in the AEIS report.
- (f) The local board of trustees shall disseminate the report by posting it in public places, such as each school office, local businesses, and public libraries.

Chapter 97. Planning and Accountability

Subchapter AA. Accountability

§97.1001. Accountability.

- (a) The rating standards established by the commissioner of education under Texas Education Code (TEC), §39.051(c) and (d) (as that section existed before amendment by House Bill 3, 81st Texas Legislature, 2009), shall be used to evaluate the performance of districts, campuses, and charter schools. The indicators, standards, and procedures used to determine ratings under both standard and alternative education accountability (AEA) procedures will be annually published in official Texas Education Agency publications. These publications will be widely disseminated and cover the following procedures:
 - (1) indicators, standards, and procedures used to determine district ratings;
 - (2) indicators, standards, and procedures used to determine campus ratings;
 - (3) indicators, standards, and procedures used to determine acknowledgment on Additional Indicators; and
 - (4) procedures for submitting a rating appeal.

§97.1001. Accountability. cont.

- (b) The standard and alternative procedures by which districts, campuses, and charter schools are rated and acknowledged for 2011 are based upon specific criteria and calculations, which are described in excerpted sections of the *2011 Accountability Manual* provided in this subsection.
- (c) Ratings may be revised as a result of investigative activities by the commissioner as authorized under TEC, §39.074 and §39.075 (as those sections existed before amendment by House Bill 3, 81st Texas Legislature, 2009).
- (d) The specific criteria and calculations used in the accountability manual are established annually by the commissioner of education and communicated to all school districts and charter schools.
- (e) The specific criteria and calculations used in the annual accountability manual adopted for school years prior to 2011-2012 remain in effect for all purposes, including accountability, data standards, and audits, with respect to those school years.

§97.1004. Adequate Yearly Progress.

- (a) In accordance with the federal No Child Left Behind Act and Texas Education Code, §§7.055(b)(32), 39.073, and 39.075, as these sections existed before amendment by House Bill 3, 81st Texas Legislature, 2009, all public school campuses, school districts, and the state are evaluated for Adequate Yearly Progress (AYP). Districts, campuses, and the state are required to meet AYP criteria on three measures: reading/English language arts, mathematics, and either graduation rate (for high schools and districts) or attendance rate (for elementary and middle/junior high schools). The performance of a school district, campus, or the state is reported through indicators of AYP status established by the commissioner of education.
- (b) The determination of AYP for school districts and charter schools in 2011 is based on specific criteria and calculations, which are described in excerpted sections of the 2011 AYP Guide provided in this subsection.
- (c) The specific criteria and calculations used in AYP are established annually by the commissioner of education and communicated to all school districts and charter schools.
- (d) The specific criteria and calculations used in the AYP guide adopted for the school years prior to 2011-2012 remain in effect for all purposes, including accountability, data standards, and audits, with respect to those school years.

§97.1005. Performance-Based Monitoring Analysis System

- (a) In accordance with Texas Education Code, §7.028(a), the purpose of the Performance-Based Monitoring Analysis System (PBMAS) is to report annually on the performance of school districts and charter schools in selected program areas: bilingual education/English as a Second Language, career and technical education, special education, and certain Title programs under the federal No Child Left Behind Act. The performance of a school district or charter school is reported through indicators of student performance and program effectiveness and corresponding performance levels established by the commissioner of education.
- (b) The assignment of performance levels for school districts and charter schools in the 2011 PBMAS is based on specific criteria and calculations, which are described in excerpted sections of the PBMAS 2011 Manual provided in this subsection.
- (c) The specific criteria and calculations used in the PBMAS are established annually by the commissioner of education and communicated to all school districts and charter schools.
- (d) The specific criteria and calculations used in the annual PBMAS manual adopted for the school years prior to 2011-2012 remain in effect for all purposes, including accountability and performance monitoring, data standards, and audits, with respect to those school years.